

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
Plaintiff,) 12CR614 (MKB)
V.) United States Courthouse
ANDREW GOODMAN,) Brooklyn, New York
Defendant.) FRIDAY, OCTOBER 16, 2015
12:00 noon

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE MARGO K. BRODIE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 THE CLERK: This is Criminal Cause for Sentencing,
2 in Docket Number 12CR614, USA versus Andrew Goodman. Counsel,
3 please state your name for the record, as well as probation.

4 MR. SMITH: Tyler Smith for the United States. Good
5 afternoon, your Honor.

6 THE PROBATION OFFICER: Good afternoon, your Honor.
7 Angelica Denise (phonetic) for United States Probation.

8 THE COURT: Angelica Denise?

9 THE PROBATION OFFICER: Angelica Denise.

10 THE COURT: Good afternoon, Ms. Denise.

11 MR. PADDEN: For Mr. Goodman, your Honor, Michael
12 Padden, Federal Defenders. And let me just apologize for my
13 being here later than I should have been. I've been literally
14 in front of Judge Vitaliano for over an hour.

15 THE COURT: I understood that, Counsel.

16 MR. PADDEN: I think my colleagues translated that
17 information. I do apologize. It was a three-defendant case,
18 and there was nothing I could do.

19 THE COURT: The fact that you were before
20 Judge Vitaliano was communicated to me. Good afternoon.

21 And good afternoon, Mr. Goodman.

22 MR. PADDEN: And with me is Sara Howard. I don't
23 know that you have met her.

24 THE COURT: I have not.

25 MR. PADDEN: She's an investigator with our office

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1 and helping me with the case.

2 THE COURT: Okay. Good afternoon, Ms. Howard.

3 We're here for sentencing today. And, first, I want
4 to review all the documents that I have, to make sure that we
5 are in agreement, that I have reviewed everything that was
6 submitted with regard to the sentencing of Mr. Goodman.

7 I have the PSR, which was prepared on
8 June 11th, 2015. I have an addendum to the PSR, which was
9 dated September 11th, 2015. I have a recommendation from the
10 Probation Department as to what they believe the sentence of
11 Mr. Goodman should be. I know the parties have that. I'm
12 sharing that with the parties now.

13 And I'll give you a minute, Mr. Padden, to review
14 that with your client, as soon as I have reviewed all of the
15 documents that I have in my possession.

16 MR. PADDEN: Thank you, Judge.

17 THE COURT: I have a letter from the government,
18 dated October 8th, 2015. I have a letter from Mr. Padden on
19 behalf of Mr. Goodman, dated September 10th, and filed
20 September 11th, 2015. Attached to that letter are a number of
21 letters in support of Mr. Goodman from his mother, his father,
22 his sister, and his aunt, as well as a number of friends, and
23 I have read them all. I also have a letter from the parents
24 of the victim in this case. I have a letter from Brian
25 Murphy, also on behalf of the victim in this case. I have

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1 another letter from -- it's a five-page letter from a
2 Mr. Weiner, also in support of the victim in this case, and I
3 have a letter from the victim in the case.

4 Am I missing any documents?

5 MR. SMITH: No, your Honor.

6 MR. PADDEN: I don't think so, your Honor.

7 THE COURT: Okay. Mr. Padden, have you had an
8 opportunity to review the presentence report in the addendum
9 with your client?

10 MR. PADDEN: I have, your Honor.

11 THE COURT: The PSR calculates the guideline range
12 as a level 29, criminal history category 2, and a
13 corresponding guideline range of 97 to 121 months. In view of
14 the fact that Mr. Goodman faces a mandatory minimum sentence
15 of 10 years, the effective guideline range is 120 to
16 121 months.

17 Are there any objections to the PSR?

18 MR. PADDEN: Your Honor, none beyond what's
19 reflected in my initial letter to probation, which adopted the
20 addendum.

21 THE COURT: In the addendum.

22 Anything from the government?

23 MR. SMITH: No, your Honor.

24 THE COURT: Okay. I accept and adopt the PSR.
25 Consistent with the PSR's calculation, my calculation of the

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1 guideline, the advisory guideline range, is a level 29, 3
2 criminal history point, for a criminal history category of 2,
3 which produces a guideline range of 97 to 121 months;
4 supervised release term of 5 years to life; fine range of
5 15,000 to 150,000, and \$100 special assessment.

6 The probation report also provides for a mandatory
7 restitution, but I understand that no affidavit of loss was
8 submitted, Mr. Tyler?

9 MR. SMITH: Yes, your Honor. I have spoken to the
10 victim's family about it, and they've indicated they don't
11 want to submit an affidavit of loss, in connection with the
12 case.

13 THE COURT: Okay. And is the victim here today?

14 MR. SMITH: Yes, your Honor.

15 THE COURT: Okay. I do have the victim statement,
16 but the victim also has a right to speak, so if the victim, or
17 anyone on behalf of the victim, would like to address
18 the Court, you just have to let me know, and I will give you
19 the opportunity later in the proceedings to do so.

20 Turning to the sentencing factors, I have considered
21 all of the relevant factors that are set forth by Congress at
22 18 U.S.C. Section 1353(a), including the advisory guideline,
23 to ensure that I impose a sentence that is sufficient, but not
24 greater than necessary, to comply with the purpose of
25 sentencing. These purposes include the need for a sentencing

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1 to reflect the seriousness of the crime, to promote respect
2 for the law, to provide just punishment for the offense, to
3 deter criminal conduct, and to protect the public from future
4 crimes by Mr. Goodman, and to promote the rehabilitation of
5 Mr. Goodman.

6 In addition to these guidelines and policy
7 statements, I must -- and I have also considered the nature
8 and circumstances of the offense, the history and
9 characteristics of Mr. Goodman, and the need to avoid
10 unwarranted sentence disparities among similarly situated
11 defendants. And, also, I have looked at the types of
12 sentences that are available.

13 Mr. Padden, do you wish to be heard further to your
14 submission as to the application of those factors?

15 MR. PADDEN: Briefly, I think, your Honor.

16 THE COURT: Okay. You may stay seated, but you can
17 stand also, if you prefer.

18 MR. PADDEN: I think I'm more comfortable standing,
19 more accustomed to standing.

20 THE COURT: Understood.

21 MR. PADDEN: Your Honor, the statutory mandatory
22 minimum of ten years here is within the guideline range, and
23 we appreciate the fact that the government has taken a
24 position that a sentence there would be acceptable to them.
25 The only reason I'm commenting beyond that is because of the

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1 very recent -- within the last few days, letters submitted by
2 the victim, and his family, and others seem to be advocating
3 for more than that; and I think to address that, for the
4 record, for them, for the Court, I do have some comments to
5 make.

6 As you well know, Mr. Goodman was sentenced in the
7 state supreme court for much of the underlying conduct that
8 forms the basis for this case. He was sentenced by a judge in
9 state supreme court by the name of Martin Murphy. I don't
10 know if you're familiar with Martin Murphy at all,
11 Judge Murphy?

12 THE COURT: I'm not.

13 MR. PADDEN: I am. I know him from my state court
14 days at the Legal Aid Society. I know him to be a strong,
15 fair-minded individual, and certainly no pushover. I know
16 there was a lot of disappointment expressed at the sentence he
17 gave Mr. Goodman on the state court charges; but that he, with
18 all the facts, the nature of the relationship between he and
19 the victim, the overall circumstances of the case, obviously
20 decided that two years was an appropriate sentence for that
21 conduct.

22 The statutory maximum for each of those counts was
23 seven years. I don't know that if he had given seven years we
24 would even be here today. I never quite established how this
25 case got before us in the federal court, but I believe it was

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1 in part because of the disappointment that was expressed
2 regarding Judge Murphy's sentence, but I do know for a fact it
3 was a well considered sentence by a strong judge and a
4 fair-minded judge. And the case here before you, if I may
5 characterize the situation, is essentially -- added the
6 element that a telephone was used in interstate commerce to
7 encourage the continuation of the relationship, which was the
8 underlying facts of the case that was considered in sentencing
9 in the state court. And I just wanted to kind of put that
10 into perspective here for all concerned.

11 That said, Judge, I certainly see no reason, no
12 need, no merit to any argument that a sentence above the
13 mandatory minimum would be appropriate here. Ten years is a
14 long time. Mr. Goodman has been in prison already for five
15 years. He's served his two-year sentence on the state case.
16 Now he's before you facing a ten-year mandatory minimum. This
17 is an extremely long period of time. And I think the fact
18 that a judge considering the facts underlying this case
19 sentenced him in what he thought was an appropriate fashion,
20 to the two years in state court, is something to be
21 considered, not only by your Honor but by all those concerned
22 that sort of expressed more severe measures to be imposed.

23 Beyond that, Judge, the government has asked for a
24 substantial period of supervised release. The mandatory
25 minimum supervised release here is five years. I would submit

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1 that in and of itself is a substantial period of time. When
2 put together, in terms of the point in the age at which
3 Mr. Goodman is here today -- he's now 31 years of age. He
4 still faces continuing in prison for many more years before
5 his sentence is completed, and then being put on supervised
6 release. I, frankly, think, Judge, that five years of
7 supervised release will tell what we need to know here.

8 I'll get to what and how he has developed since his
9 incarceration, but, certainly, to put it in one way, Judge, if
10 he successfully completes five years of supervised release, I
11 think the proof is there that the sentence would have been --
12 what we would hope to have been accomplished in such a
13 sentence would be proven. If he were to violate supervised
14 release, I'm sure it would happen within the five-year period
15 of time. I don't expect he will, but I think that
16 Mr. Goodman, for his own rehabilitative purposes, needs some
17 view of the future under which he can move on with his life,
18 without the so-called actual shackles of imprisonment and the
19 figurative shackles of being on supervised release.

20 I think, personally, Judge, that five years is
21 enough time for that to be accomplished, and it is a
22 substantial period of time on supervised release. So I would
23 advocate, Judge, for the sentence of 10 years, 5 years
24 supervised release. About Mr. Goodman, you well know that
25 I've been involved in this case for quite a while. I've come

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1 to know Mr. Goodman. I find Mr. Goodman to be a serious,
2 contemplative, respectful person, client who has put a lot of
3 thought into his actions and deeds over the last decade of his
4 life and has grown immensely.

5 There is some suggestion in the letters that were
6 recently presented to the Court that there have not been
7 acceptance of responsibility, not enough appreciation for what
8 he did; and they point to, among other things, things that he
9 said and did in motions in this case. I can assure the Court
10 -- and I think Mr. Goodman will be able to convince you as
11 well -- that he very much accepts responsibility for his
12 actions in this case, is very remorseful and concerned about
13 the victim in this case.

14 The motions that seem to be the subject matter of
15 some of the concerns here were motions he filed when he was
16 not represented by me. As you well know, he went pro se for a
17 period of time. And, frankly, Judge, they were ill-advised
18 motions that resulted from his falling somewhat under the sway
19 of jailhouse lawyers. And when I say "jailhouse lawyers," I
20 don't mean in the colloquial sense; those in jail that think
21 they know a lot about the law but are there for their
22 problems. This was an actual lawyer in the prison who was
23 advising Mr. Goodman and pushed the notion of some of the
24 motions he filed before the Court.

25 And, frankly, Judge, he hit a point where he finally

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1 realized the following of that whole process; that's when he
2 came to me and said he did not want to pursue this, he didn't
3 want to proceed in such a way, he wanted to plead guilty, he
4 wanted to accept responsibility, he wanted to literally avoid
5 the travail that the victim would endure during a trial here,
6 he wanted to put an end to it, and he wanted to accept his
7 responsibility. That's when he indicated through me to the
8 government that he wanted to plead guilty and that he wanted
9 me to resume my representation of him.

10 He disavowed the actions that had taken in the form
11 of motions that were, as I said, ill-advised by people he was
12 listening to at the jail. I think when he speaks to you,
13 you'll get a better sense of that. That said, Judge,
14 Mr. Goodman -- and, certainly, when defendants, former
15 clients, take the route of proceeding pro se, I think we all
16 shudder, because I think more times than not in this
17 courthouse the proceedings become a circus. I think you saw
18 in Mr. Goodman someone who was as professional -- without
19 regard to the merits of the arguments, but someone who
20 presented them to your Honor in as articulate and as organized
21 a way as he possibly could have under the circumstances.

22 I don't think he ever displayed any disrespect to
23 the Court in doing so. I think he was always very meticulous
24 in his preparation and presentation of his motions, and I
25 think, clearly, always respected the Court in its

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1 determination in those motions. That's been consistent with
2 my experience with him.

3 This has been a difficult case for any lawyer, given
4 the subject matter underlying. I have appreciation and
5 sympathy for the parents in the case, for the victim in the
6 case. It is a difficult subject matter to deal with. But yet
7 I found that throughout I had a very professional relationship
8 with Mr. Goodman. He was always, as I said before, very
9 respectful of me, and of your Honor, and of the Court. And I
10 think he tried to present what he had been convinced were
11 legal arguments that could be made on his own behalf, which I
12 told him I, frankly, wouldn't make, which is why he proceeded
13 pro se.

14 He resolved that in his mind. He resolved that in a
15 respectful way. Recognized the following of that and
16 proceeded as he had, since avoiding the unnecessary trial that
17 would otherwise occur here. I do think -- as I said before,
18 he has remorse, which he will express to you, and I think that
19 still facing a continued substantial portion of his life in
20 prison that ten-year sentence is more than adequate to punish
21 him.

22 And I think five years supervised release is more
23 than adequate to ensure that when he gets out of jail, he'll
24 take the right steps in his life. He's a smart person. He's
25 an educated person. He's an intelligent person. He can move

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1 on here. And, obviously, he will get the appropriate
2 treatment, counseling. Programs in prison will help him
3 towards that. And I think that enough has been posed here to
4 do that. Thank you.

5 THE COURT: Thank you, Mr. Padden. Now, I did say
6 I'd give you a few minutes to review the Probation
7 Department's recommendation with your client. Have you had an
8 opportunity to do that?

9 MR. PADDEN: I read it, Judge; he's read it too.

10 THE COURT: Okay.

11 MR. PADDEN: I don't take contests.

12 (Pause in proceedings.)

13 MR. PADDEN: We're all set, Judge.

14 THE COURT: Okay. Before I give the government an
15 opportunity to be heard, Mr. Goodman, I'll give you an
16 opportunity to speak to me. You have the right to do so, but
17 you certainly don't have to. It's up to you.

18 THE DEFENDANT: Thank you, your Honor. I appreciate
19 the opportunity. There's a couple things I want to touch on
20 today that I thought about, a lot of times I think in these
21 past years. You know, I thought about what contributed
22 towards my making such terrible decisions that effected not
23 only the victim and his family, effected myself, effected by
24 parents, and I can't be there with my grandmother, who is very
25 sick. I mean, I read the victim's letter. I read -- I

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1 understand what he's going through, and I know it's my fault,
2 and that doesn't sit well with me.

3 You know, anybody could say they have remorse.
4 Anybody can get up here and say they're sorry, and, you know,
5 I'm sitting here and thinking about these things because I
6 don't want to make the same mistakes again, and I won't make
7 the same mistakes again. It's very real to me. What he feels
8 is more important to me than anything else. If he hurts
9 because of me, that matters. I care about other people on
10 this planet. I have empathy. And I don't want to be
11 responsible for causing anybody pain.

12 I have to register for the rest of my life as a sex
13 offender, which means I'll be discriminated against when it
14 comes to employment and housing. Because of decisions that I
15 made, I have destroyed in many ways the rest of my life
16 because of foolish and misguided notions that I was under,
17 just a completely flat out wrong way of thinking. And I have
18 a rewind button, and I can't undo this, and I would give
19 anything to undo this. If my life in prison would take away
20 his pain, I would ask you to put me in life in prison, if that
21 would take away his pain, but I don't think it will, and I
22 don't know what will, and I wish I did.

23 And I really -- I want to apologize to my parents;
24 you shouldn't have to take care of your 31-year-old son. I'm
25 sorry for being such a screw-up. Sorry to my sister, who I'm

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1 not there for. I want to express my gratitude to Michael, who
2 has been phenomenal every step of the way. I don't think I
3 could have paid for better representation, honestly. He's
4 just an amazing attorney, and I'm really grateful that he
5 stood by me throughout all of this. And I'm grateful to Sara,
6 who has been there for me and seen me through the hard times.
7 And I'm grateful to my family and my friends who stayed there
8 and, you know, come under fire from people, while sticking up
9 for me, just for being there for me, and I'm really
10 appreciative for that.

11 I know -- Seth, you've really been there for me,
12 man, in every way, and I appreciate that. And I'm grateful to
13 you, your Honor, for having so much patience with me
14 throughout this process. Believe it or not, I even am
15 grateful to Mr. Smith; he treated me extremely professionally.
16 Even though I was a pro se defendant, he never belittled me,
17 and I never felt mocked or put down by him, and I'm grateful
18 to him that he is helping, even if it's at my detriment.

19 And, you know, some of my motion practice was
20 extremely foolish, and it was misguided. And the guy calmed
21 me and even calmed Mr. Smith. The guy's a professional
22 three-time fraudster who is just a real con artist, and he
23 realized -- that's why you get a 5K1 letter -- that the good
24 guy is doing 11 years in prison for a reason. It was terribly
25 foolish. I wish -- I don't know. I can't do anything to

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1 prove myself more than that, other than my actions, and in the
2 end, I know I'll never be back here again. This has been a
3 tremendously unpleasant experience.

4 Prison is terrible, especially, you know, being gay
5 in prison, and just -- you know, things are difficult. Not an
6 easy life. And I have -- I have spent -- this is not the only
7 thing that I have ever done in my life. Although this is
8 extremely terrible, and this is the reason I'm here, I'm more
9 than just one action. I'm the total sum of all my actions,
10 and I have spent my time, my entire life, trying to help
11 everybody I could, and I'm going to continue that, and I do
12 that even in jail. And I'll continue to -- even if people
13 tell me I'm too nice, I'll continue to do that. And I have
14 value to society. I have value.

15 I can contribute, and I want to contribute, and I'm
16 going to do good things, and I give you my word on that one.
17 And I'm not going to ask your Honor for any mercy, because I'm
18 going to just accept whatever judgment you place before me
19 today, because you've been very fair throughout this process,
20 and I trust in whatever you do, whatever you decide. And I
21 just thank you, and I am really sorry.

22 THE COURT: Thank you, Mr. Goodman.

23 Mr. Smith, would you like to be heard further?

24 MR. SMITH: Yes, your Honor. As Mr. Padden said,
25 the government agreed not to take a position on sentencing, so

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1 I won't take a position as to a custodial sentence. I do have
2 some comments about the term of supervised release. You know,
3 the statute sets a minimum term of supervised release of five
4 years and a maximum up to life. I don't think five years is a
5 long time for a case like this. Many judges impose
6 significant terms of supervised release. I think the evidence
7 here makes a term of supervised release of at least 20 years
8 appropriate, not only to make sure the defendant's monitored
9 but also to make sure he's getting the mental health treatment
10 that he needs.

11 Based on my involvement in the case, I have no
12 reason to doubt that the defendant didn't think he was hurting
13 anyone when this was going on, but that's absolutely the thing
14 that troubles me; because over the course of years, he did
15 terrible, damaging things, all believing that they weren't
16 hurting anyone, and that's why the government thinks that a
17 significant term, a term of supervised release of at least
18 20 years is necessary to make sure that if he is in situations
19 to make bad choices like that again, there is someone telling
20 him that that is a bad choice.

21 Because even based on what he said today, he
22 couldn't recognize that at the time, and I don't know that
23 there's an indication that he would recognize it in
24 circumstances that weren't exactly the same as this, you know,
25 going forward. That's all I have to say on that.

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1 THE COURT: Okay. Thank you.

2 Mr. Padden, would you like to be heard further?

3 MR. PADDEN: No, Judge. I mean, I note the obvious,
4 that the Probation Department -- I still take the position
5 that five years is significant enough. The Probation
6 Department recommended ten years supervised release; I point
7 that out, but that's the Court's discretion.

8 THE COURT: Okay. After assessing the particular
9 facts of this case and in light of all the relevant --

10 MR. SMITH: Your Honor?

11 THE COURT: Yes.

12 MR. SMITH: Can I consult with the victim's family
13 to see if they want to make a statement?

14 THE COURT: Absolutely. As I have already
15 indicated, the victim and or his family has the right to speak
16 to the Court.

17 (Pause in proceedings.)

18 MR. SMITH: Thank you, your Honor. I had a chance
19 to that consult with them, and they're going to rely on their
20 written submissions.

21 THE COURT: Okay. Which I've read all of them.

22 After assessing the particular facts of the case,
23 and in light of all the 3553(a) factors, including the
24 sentencing guidelines, and considering the victim's statement,
25 and all the other statements made on behalf of the victim, as

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1 well as the statements made on behalf of Mr. Goodman, I do
2 conclude that a sentence of ten years in jail and ten years of
3 supervised release is an appropriate sentence.

4 I note that the government did enter into a plea
5 agreement with Mr. Goodman, agreeing to an advisory guideline
6 range of 97 to 121 months, and that the government agreed not
7 to ask for or move to have me impose a sentence above the
8 guideline. I also note that the Probation Department's
9 recommendation is that I sentence Mr. Goodman to 10 years, and
10 that I also impose 10 years of supervised release.

11 Mr. Padden, I appreciate you asking that I only impose 5, and
12 I appreciate the government asking that I only impose -- that
13 I do impose 20. I also acknowledge the request of the victim,
14 for a life in prison sentence, and from Mr. Weiner, for a
15 sentence of 20 years.

16 In reaching this decision, it was challenging, to
17 say the least, but I do believe that a sentence of 10 years in
18 custody and supervision, with a number of conditions, which
19 I'll get to in a minute -- but one of the conditions will be
20 that you will have absolutely no contact with the victim or
21 any of his family. I believe the sentence reflects the
22 seriousness of the crime that you committed, Mr. Goodman, and
23 that it sufficiently punishes you for that crime, and that it
24 will deter you from other criminal conduct; because not only
25 will you have to spend 10 years in custody on this sentence,

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1 but the supervision and the conditions that I'm imposing
2 afterwards would mean that you will be strictly supervised for
3 an additional ten years.

4 I took into account the fact that the victim was so
5 very young at the time you began interacting with him, and
6 that he was only 15 at the time the crime of conviction took
7 place. Now, you've stated to me -- and it appears that the
8 government believes -- that you didn't know you were hurting
9 the victim. I'm not sure that I believe that. Reading all of
10 the letters submitted by your parents and your friends, it's
11 clear to me that you're a very smart individual and that
12 you're also very caring, and that may be one of the reasons
13 why you were able to commit the crime that you did.

14 Many of the letters from your family members and
15 friends gave concrete examples of you caring for, and taking
16 care of others, and putting others ahead of you. I get the
17 impression that you knew that you were hurting the victim, but
18 you were more concerned about yourself, what that was doing
19 for you, rather than focusing on how much you were hurting the
20 victim in this case. I took into account the fact that you
21 have caused long-lasting injuries to this individual. In the
22 victim's own words, you've ripped the life out of him. You've
23 basically ruined his childhood.

24 This is a young man who is going to have to find the
25 strength to put his life back together, all because of what

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1 you've done to him, and that is something that you will have
2 to live with. But this victim has been injured to such an
3 extent that I can't even begin to somehow address that. I
4 took all of that into account, but I also looked at all the
5 other aspects of your life, based on all of the letters that I
6 received from your family members; the fact that despite your
7 challenges with ADHD, you managed to get an associates degree
8 in college, and the many ways in which you've attempted to
9 help others; the fact that you were gainfully employed before
10 you were incarcerated, and I balanced all of those factors.

11 And while at the end of the day -- and I'm speaking
12 to the victim now -- that I didn't sentence Mr. Goodman to a
13 life in prison, I do believe that the sentence is appropriate.
14 I do hope that you will be able to somehow find the strength
15 to get your life back on track, that you don't give
16 Mr. Goodman the power by ruining your life forever, that you
17 are and will be able to put this behind you now that he's been
18 sentenced and will be prohibited from ever contacting you or
19 your family members, and that you can go on with your life and
20 make something of yourself.

21 According to what everyone has said about you, you
22 are a very smart young man who did very well in school until
23 this happened to you. I know you have supporting family
24 members, friends, and others who are helping you through this,
25 and so you should lean on them and find the strength to be a

1 success. That will be your sweet revenge for what Mr. Goodman
2 did to you. My role is only to punish him for the crime and
3 to do so in a manner that Mr. Goodman hopefully understands
4 and appreciates the hurt that you've (sic) caused, will take
5 responsibility, which you appear to have done, and will learn
6 from this.

7 I do hope, Mr. Goodman, that you spend your time in
8 custody not only learning from your mistake but figuring out
9 how to live a life, a law-abiding life, and how to make sure
10 that you never ever put anyone else in the position that
11 you've put this victim. You're a smart young man; I could
12 tell that from the written work you've submitted to me, the
13 way in which you argued your case to me, and I do believe that
14 you have a lot to offer to society and that you should be
15 given the opportunity to do so. But first you must be
16 punished for the crime, and that is why I impose a sentence of
17 10 years in prison, 10 years of supervised release.

18 It is the longest period of supervised release I
19 have imposed on anyone, but I believe it's necessary in this
20 case, because there will be a period of adjustment once your
21 term of incarceration ends, and I want to ensure that you're
22 being supervised by the Probation Department for a lengthy
23 period of time, just to make sure that you can adjust back to
24 society and stay out of trouble. Hopefully 15 years from now
25 I'll get a letter from the victim telling me that he's doing

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1 better, and I'll get something from you too, Mr. Goodman,
2 showing me that the trust I'm placing in you by only
3 sentencing you to 10 years will mean something.

4 If I'm wrong, you'll be back before me, and I'll
5 have the opportunity then to consider imposing a lengthier
6 period of time. But somehow I don't think you will be back; I
7 think you will serve your time. I hope that you will
8 recognize your wrong and that you will grow as a person. The
9 special conditions I am imposing, one of which I've already
10 indicated what it is, you're not to have any contact with the
11 victim in this case or with his family members. This means
12 that you can't attempt to contact any of them in person,
13 communicate by letter, telephone, e-mail, the Internet,
14 through a third party, none of it.

15 If for any reason you decide that you need to be in
16 contact, you need to discuss that with the Probation
17 Department. You can only contact them if you have the
18 permission of the Probation Department. You shall participate
19 in a mental health treatment program; I believe it's necessary
20 under the circumstances. And that may include participating
21 in a treatment program for sexual disorders, as approved by
22 the Probation Department. You shall contribute to the cost of
23 such services rendered and also to any psychotropic
24 medications that are prescribed if, in fact, you're reasonably
25 able to contribute to the cost.

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1 You shall cooperate in securing any applicable third
2 party payment. You must disclose all your financial
3 information and documents to the Probation Department to
4 assess your ability to pay. And as part of the treatment
5 program, you may be asked to participate, and this is a
6 treatment program for sexual disorders. You may be asked and
7 shall participate, if required by the Probation Department, in
8 a polygraph examination to obtain information necessary for
9 risk management and correction treatment. You must comply
10 with the law that requires you to register as a sex offender.

11 Mr. Padden, do you know if it was determined, what
12 level?

13 MR. PADDEN: That was litigated in the state court,
14 Judge, and I think he was classified at level 3.

15 THE COURT: As a level 3 sex offender registrant, I
16 believe you're required to register for life.

17 THE DEFENDANT: Every 90 days I have to show up.

18 THE COURT: Every 90 days you do have to show up.
19 You must comply with all of those requirements.

20 You shall not associate with any child under the age
21 of 18 unless a responsible adult is present and you have prior
22 approval from the Probation Department. If you cohabitate
23 with any individual who has minor children, you must inform
24 that other party of your prior criminal history. They must be
25 told. Do you understand?

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1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You must also notify the party that
3 you're prohibited from associating with any child who is under
4 the age of 18, unless a responsible adult is present. You
5 shall also submit your person, property, house, residence,
6 vehicle, papers, computers, and any other electronic
7 communication, or data storage devices, or media, or office to
8 a search conducted by a United States Probation Officer.

9 Failure to submit to such a search may be grounds
10 for revocation of any release. You must warn any and all
11 occupants that the premises, if you reside with someone or
12 work with others, may be subject to a search, pursuant to this
13 condition. Do you understand that, Mr. Goodman?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: A probation officer may conduct such a
16 search pursuant to this condition only when a reasonable
17 suspicion exists that you have violated a condition of your
18 supervision and that the areas to be searched contain evidence
19 of this violation. And any search by the Probation Department
20 must be conducted at a reasonable time and in a reasonable
21 manner. Mr. Smith, there's a forfeiture provision in the plea
22 agreement. Is there anything to be forfeited? To the extent
23 that there is, Mr. Goodman, you have to comply with the
24 forfeiture provision in your plea agreement. The government
25 will let you know if there is. And you are required,

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1 Mr. Goodman, to make a full financial disclosure to the
2 Probation Department officer.

3 And, lastly, you shall not possess a firearm,
4 ammunition, or any destructive device. I do not impose a
5 fine. I find, Mr. Goodman, that you're not capable of paying
6 a fine. I do impose the \$100 special assessment.

7 Mr. Goodman, you can appeal your conviction if you believe
8 that your guilty plea was somehow unlawful, or involuntary, or
9 if you believe there's some other fundamental defect in the
10 proceeding that was not waived by your guilty plea. Under
11 some circumstances, a defendant has a right to appeal his
12 sentence. However, a defendant may waive that right, and you
13 did waive that right when you entered the plea agreement with
14 the government.

15 Such waivers are generally enforceable, but if you
16 believe there's some theory that you can make as to why it
17 shouldn't be in this case, you can make that argument to the
18 appellate court. Any notice of appeal must be filed within
19 14 days of the judgment of conviction. I expect that the
20 judgment will be filed today or within 14 days of the
21 government's filing of the notice of appeal. If you request,
22 the clerk of the court will prepare and file notice of appeal
23 on your behalf.

24 If you cannot afford the cost of an appeal, or for
25 appellate counsel, you have the right to apply for leave to

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1 appeal in forma pauperis, which means that you can apply to
2 have the filing fee waived. And an appeal, you can ask for
3 court-appointed counsel.

4 I believe there's an open count.

5 MR. SMITH: The government moves to dismiss the open
6 count.

7 THE COURT: The Court grants the government's motion
8 and dismiss Count 2 of the Indictment.

9 Are there any other matters that should be resolved?

10 MR. SMITH: I just want to note, your Honor, there
11 wasn't a forfeiture provision in the plea agreement.

12 THE COURT: Anything else?

13 MR. PADDEN: A couple matters, Judge, that are more
14 important to be considered, housekeeping. First of all -- and
15 it was addressed in the addendum to the presentence report,
16 but it's of paramount concern that the presentence report be
17 edited to remove from the front page that notation of detainer
18 by New York State Department of Corrections. We've all agreed
19 that doesn't exist. I've spoken to everybody about it. This
20 report goes to the institution with Mr. Goodman, and I'm sure
21 someone will look no further than the first page, and that
22 would limit his ability to get into vocational programs,
23 counseling, which is what we want him to get, beyond any
24 limits that he has in prison.

25 THE COURT: I will ask the Probation Department

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1 officer, but my understanding is the addendum took care of
2 that by noting there is no detainer.

3 THE PROBATION OFFICER: That's correct, your Honor.
4 We don't object to defense counsel. We can go ahead and
5 revise the front page so that it will not include a detainer.

6 MR. PADDEN: That would be appreciated. Secondly,
7 Judge, with respect to designation, the probation report --
8 the recommendation the Court mentions, the sex offender
9 program at Devens, but that doesn't take place until the very
10 end of period of sentence. Mr. Goodman asked me to ask
11 the Court to recommend incarceration at the facility at
12 Danbury, and he does so only because that's the only place
13 where his family is in a position to travel to, to visit him;
14 and he fears if he goes any further than that, he won't see
15 his family again until the sentence is over.

16 And he will not be in the program at Devens until
17 the end of the sentence, and it's possible -- and I understand
18 that there are processes in the works that may have the same
19 sex offender program at Danbury as well. To the extent that
20 the sentence complies with your Honor's direction with respect
21 to the sex offender treatment, in the interim, if you could
22 recommend -- and I understand it's up to the Bureau of
23 Prisons; they don't follow, necessarily, your recommendations,
24 but they consider it -- that the institution at Danbury -- and
25 I believe it's FCI Danbury.

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1 THE COURT: As opposed to any other institution in
2 the northeast, where his family can visit?

3 MR. PADDEN: That we determined is probably the
4 closest and the easiest for the family, so we prefer that. If
5 that's not available, the closest one in the northeast.
6 Generally, because of his residence, are supposed to consider
7 the northeast. We'd like to have a recommendation that if
8 possibly it be Danbury.

9 THE COURT: I'm happy to make the recommendation,
10 with the understanding that the U.S. Marshals --

11 MR. PADDEN: I understand, Judge.

12 THE COURT: -- will make the determination based on
13 what they believe is appropriate, but I do recommend that
14 Mr. Goodman be placed either in Danbury or in a facility in
15 the northeast, so that his family and friends can visit him.

16 MR. PADDEN: Thank you, Judge. There was a period
17 of time in the beginning of this case where Mr. Goodman was
18 back and forth between state custody and federal custody
19 before he was actually finished with his state sentence. I
20 ask that the Court -- respectfully ask the Court to consider
21 recommending that that time run concurrently.

22 THE COURT: I'm not sure that I'm -- I'm following
23 you with regard to what specific time you're referring to.
24 Are you referring to the time period where he was in federal
25 custody but still serving time?

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1 MR. PADDEN: Yes.

2 THE COURT: He was here on a writ?

3 MR. PADDEN: He was here on a writ in the beginning,
4 Judge, and he wasn't released from -- there was a period of
5 time when he was under both, in both custody. He was both in
6 federal and state, but I think the time is being credited to
7 the state, because he was here on a writ. You can make that
8 time concurrent.

9 THE COURT: As I understand it, Counsel, he wasn't
10 released from state custody until October of 2012; correct?

11 MR. PADDEN: I believe that's correct, Judge.

12 THE COURT: So that when he was first brought into
13 federal custody, in July of 2012, he was still serving out his
14 state sentence.

15 MR. PADDEN: Correct.

16 THE COURT: And so what you're asking me to do is
17 overlap these time periods?

18 MR. PADDEN: Yes.

19 THE COURT: I reject your application. I believe
20 it's appropriate that Mr. Goodman serve whatever state time
21 was allotted to him on his state sentence, which he served, I
22 believe, a little less than the full time period. So you were
23 in custody on the state matter through October of 2012;
24 correct? And I believe the writ was satisfied so that you
25 were then in federal custody after that happened, so you've

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1 been getting credit for the time of your federal sentence
2 based on the end of your state sentence, and I'm not willing
3 to give you credit for the time spent on your state sentence
4 in federal custody. Your federal time and your state time, in
5 fact, should run consecutively not concurrently.

6 MR. PADDEN: I think that's it for us.

7 THE COURT: Anything else?

8 MR. PADDEN: No thank you.

9 THE DEFENDANT: May I say one more thing? I just
10 want to reiterate my remorse, in case there was any doubt of
11 my sincerity. I meant what I said. I really am sorry, and I
12 want everybody to know that.

13 THE COURT: I do believe that you are sorry,
14 Mr. Goodman.

15 Is there anything else from the government?

16 MR. SMITH: No, your Honor.

17 THE COURT: Okay. Then we're adjourned.

18 Good luck, Mr. Goodman.

19 (Proceedings adjourned.)

20

21 * * *

22 I certify that the foregoing is a true and correct
23 transcription of the record from proceedings in the
above-entitled case.

24 /s/ Nicole Canales
25 Nicole Canales

March 8, 2016
Date